

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**March 22, 2004**

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Nicholson, Associate Justice; and Rios, bailiff.

**C042553 THE PEOPLE v. RATHBURN**

Cause called. Rebecca P. Jones, court appointed counsel, argued for appellant. Mark A. Johnson, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:45 a.m. the court recessed. At 9:50 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Hull, Associate Justice.

**C042172 CAVANAGH v. CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD et al.**

Cause called. Peter Joseph Cavanagh argued In Pro Per as appellant. Robert E. Asperger, Deputy Attorney General, argued for respondents. Cause submitted.

At 10:09 a.m., the court recessed. At 10:13 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

**C041119 THE PEOPLE v. BROWN III**

Cause called. Geri Green, court appointed counsel, argued for appellant. Netania E. Melamed Morre, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:41 a.m., the court recessed. At 10:43 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C042066 ROBRECHT v. L.K. HOLLENBEAK LOGGING CORPORATION et al.**

Cause called. Gay Robrecht argued In Pro Per as appellant. Mark D. Norcross argued for respondents. Cause submitted.

At 11:01 a.m., the court recessed. At 11:07 a.m., the court reconvened with Nicholson, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C040072 HOOPER v. CAPOBIANCO**

Cause called. Fred J. Hiestand argued for appellant. Stanley P. Fleshman argued for respondent. Cause submitted.

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**March 22, 2004, continued**

At 11:44 a.m., the court recessed. At 2:02 p.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

**C043720      UGARTE v. ATLAS SECURITIES, INC.**

Cause called. Thomas L. Riordan argued for appellant. James A. Hughes argued for respondent. Cause submitted.

At 2:33 p.m. the court recessed until 9:30 a.m., Tuesday, March 23, 2004.

**C042092      THE PEOPLE v. COOKE      (Not for Publication)**

The judgment is modified...; in all other respects, the judgment is affirmed.

MORRISON, J.  
We concur:    Blease, Acting P.J.  
                 Robie, J.

**C042831      THE PEOPLE v. VANG      (Not for Publication)**

The judgment is affirmed.  
SIMS, Acting P.J.  
We concur:    Davis, J.  
                 Raye, J.

**C044154      THE PEOPLE v. WALTERS      (Not for Publication)**

The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect this modification and to forward a certified copy of the amended abstract to the Department of Corrections.

SCOTLAND, P.J.  
We concur:    Nicholson, J.  
                 Hull, J.

**C044603      THE PEOPLE v. HOLUB      (Not for Publication)**

The judgment is affirmed.  
SCOTLAND, P.J.  
We concur:    Raye, J.  
                 Robie, J.

**C044887      THE PEOPLE v. BOJORQUEZ      (Not for Publication)**

The appeal is dismissed.  
DAVIS, J.  
We concur:    Blease, Acting P.J.  
                 Robie, J.



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**March 23, 2004, continued**

At 10:20 a.m., the court recessed. At 10:24 a.m., the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

**C042391      ATLAS DISPOSAL INDUSTRIES, LLC. v. BFI WASTE SYSTEMS OF NORTH AMERICA, INC.**

Cause called. Thomas M. Bruen argued for appellant. Douglas E. Kirkman argued for respondent. Cause submitted.

At 11:04 a.m., the court recessed. At 11:08 a.m., the court reconvened with Davis, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

**C043320      LOVEJOY v. AT&T CORPORATION**

Cause called. Marc C. Barulich argued for appellant. Kevin R. Iams argued for respondent. Cause submitted.

At 11:40 a.m., the court recessed. At 2:02 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Robie, Associate Justice.

**C041977      THE PEOPLE v. JOHNSON et al.**

Cause called. Robert Navarro, court appointed counsel, argued for appellant Primes. Victor S. Haltom argued for appellant Johnson. Maggy Krell Deputy Attorney General, argued for respondent. Cause submitted.

At 2:28 p.m., the court recessed. At 2:34 p.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

**C042517      TRACE v. TRU-LINE BUILDERS**

Cause called. Peter J. Stubbs argued for appellants. Dolores B. Dalton argued for respondent. Cause submitted.

At 2:55 p.m., the court recessed. At 3:00 p.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

**C037445      THE PEOPLE v. RANDTRON  
C038921**

Cause called. John A. Taylor, Jr. argued and Donald A. Robinson appeared only for appellant. Robin Leslie Stewart argued and D. Stephen Schwabauer appeared only for respondent. Cause submitted.

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**March 23, 2004, continued**

At 3:11p.m., the court recessed. At 3:17 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Davis, Associate Justice.

**C039076 CITY OF LODI et al. v. UNIGARD INSURANCE COMPANY**  
**C040683**

Cause called. Robin Leslie Stewart argued and D. Stephen Schwabauer appeared only for appellants. Dennis Zaragoza argued and Jay-Allen Eisen appeared only for respondent. Cause submitted.

At 3:36 p.m., the court recessed until 9:30 a.m., Wednesday, March 24, 2004.

**C042383 THE PEOPLE v. PORTER (Not for Publication)**

The judgment is affirmed.

HULL, J.

We concur: Scotland, P.J.

Robie, J.

**C044736 THE PEOPLE v. TORRES (Not for Publication)**

The judgment is modified... The trial court is directed to prepare an amended abstract of judgment reflecting this modification and to forward a certified copy to the Department of Corrections. In all other respects, the judgment is affirmed.

RAYE, J.

We concur: Nicholson, Acting P.J.

Hull, J.

**C041511 MAULDIN et al. v. COUPE et al. (Not for Publication)**

The judgment is reversed and the matter remanded to the trial court with directions to vacate its order granting defendants' motion for summary judgment and to enter a new order denying the motion. Plaintiffs are awarded costs on appeal.

HULL, J.

We concur: Davis, Acting P.J.

Raye, J.

**C043748 In re CHARLES C.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH  
AND HUMAN SERVICES v. MARGIE W. et al. and CHARLES C.  
(Not for Publication)**

The order granting the petition for modification is reversed.

MORRISON, J.

We concur: Sims, Acting P.J.

Raye, J.

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**March 23, 2004, continued**

**C045232      In re JACOB F. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH  
AND HUMAN SERVICES v. HEIDI Z.                      (Not for Publication)**

The orders terminating appellant's parental rights and selecting adoption as the permanent plan for the minors are reversed, and the matter is remanded for the limited purpose of providing notice to the Cherokee tribes in compliance with ICWA requirements as explained in the Guidelines.

If, after proper notice, the Cherokee tribes either do not respond or determine that the minors are not Indian children with respect to the Cherokee tribes, the juvenile court shall reinstate the orders.

However, if any of the tribes determine the minors are Indian children with respect to the Cherokee tribe, the juvenile court shall conduct a hearing to determine the comparative interests of the tribes in the welfare of the minors. If the tribe with which the minors have more significant contacts is determined to be the Muscogee (Creek) Nation, the juvenile court shall reinstate the orders terminating appellant's parental rights and selecting adoption as the permanent plan for the minors. But, if one of the Cherokee tribes is determined to be the tribe with which the minors have more significant contact, the court shall hold a new section 366.26 hearing in conformance with all provisions of ICWA.

SCOTLAND, P.J.

We concur:    Raye, J.  
                     Robie, J.

**C041624      WILMSHURST v. WILMSHURST                      (Not for Publication)**

THE COURT:

The petition for rehearing is denied.

FOR THE COURT:

DAVIS, Acting P.J.

RAYE, J.

BUTZ, J.

**C042504      WELLS, etc., et al. v. ONE2ONE LEARNING FOUNDATION et al. and STATE  
OF CALIFORNIA**

BY THE COURT:

Respondent Charter School Resource Alliance et al.'s petition for rehearing is denied.

NICHOLSON, Acting P.J.

**March 24, 2004**

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Davis, Associate Justice; Robie, Associate Justice; and Facey, bailiff.

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**March 24, 2004, continued**

**C040902 THE PEOPLE v. GUDINO**

Cause called. Gaspar R. Garcia II argued for appellant. Paul E. O'Connor, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:50 a.m., the court recessed. At 9:52 a.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Hull, Associate Justice.

**C042918 WANLAND, JR. et al. v. LAW OFFICES OF MASTAGNI, HOLSTEDT, & CHIURAZZI et al.**

Cause called. No appearance was made on behalf of appellant. Port J. Parker argued for respondents. Cause submitted.

At 9:54 a.m., the court recessed. At 9:55 a.m. the court reconvened.

**C044357 CANAL INSURANCE COMPANY v. TACKETT**

Cause called. Richard J. Molin argued for appellant. Linda Linton argued for respondent. Cause submitted.

At 10:03 a.m., the court recessed. At 2:01 p.m., the court reconvened with Sims, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

**C036854 THE PEOPLE v. MEEKS**

Cause called. Robert W. Gehring, court appointed counsel, argued for appellant. R. Todd Marshall, Deputy Attorney General, argued for respondents. Cause submitted.

At 2:27 p.m., the court recessed until 9:30 a.m., Friday, March 26, 2004.

**C042540 THE PEOPLE v. BURNETT (Certified for Partial Publication)**  
**THE COURT:**

It is ordered that the opinion on rehearing filed herein on February 27, 2004, be modified...

There is no change in the judgment.

Respondent's petition for rehearing is denied.

BY THE COURT:

BLEASE, Acting P.J.

RAYE, J.

MORRISON, J.

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**March 25, 2004**

- C041977      THE PEOPLE v. JOHNSON et al.      (Not for Publication)**  
The judgment as to each defendant is modified... In all other respects, the judgments are affirmed. The trial court is directed to correct the abstracts of judgment and to send the certified corrected abstracts of judgment to the Department of Corrections.  
ROBIE, J.  
We concur:    Blease, Acting P.J.  
                 Davis, J.
- C045144      THE PEOPLE v. PATTERSON      (Not for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We concur:    Scotland, P.J.  
                 Robie, J.
- C045187      THE PEOPLE v. VILLARREAL      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting this modification and indicating that conduct credits were awarded pursuant to Penal Code section 2933.1 and forward a certified copy of the amended abstract of judgment to the Department of Corrections.  
BLEASE, Acting P.J.  
We concur:    Morrison, J.  
                 Butz, J.
- C043934      COUNTY OF EL DORADO v. FIRST FEDERAL PROPERTIES, INC. and WINSTEAD as Trustee, etc.      (Not for Publication)**  
The judgment is affirmed. Winstead shall recover its costs on appeal. (Cal. Rules of Court, rule 27.)  
SIMS, Acting P.J.  
We concur:    Morrison, J.  
                 Butz, J.
- C044465      COUNTY OF EL DORADO v. REEB      (Not for Publication)**  
The matter is remanded for an accounting of the allowable costs of the minor's support and maintenance consistent with this opinion. In all other respects, the judgment is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a) (4).)  
BLEASE, Acting P.J.  
We concur:    Sims, J.  
                 Raye, J.



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**The Minutes**

**March 25, 2004, continued**

**C044931      CASCADE HOUSING ASSOCIATION v. CITY OF JACKSON and MOSLEY et al. and SENIORS AGAINST GOVERNMENTAL ABUSE et al.**  
**(Not for Publication)**

The judgment is affirmed.

NICHOLSON, J.

We concur:    Scotland, P.J.

Raye, J.

**C044545      In re NICOLE S. et al.; EL DORADO COUNTY DEPARTMENT OF SOCIAL SERVICES v. LORI S.**  
**(Not for Publication)**

The appeal is dismissed.

BUTZ, J.

We concur:    Davis, Acting P.J.

Morrison, J.

**March 26, 2004**

At 9:30 a.m. the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Raye, Associate Justice; Morrison, Associate Justice and Facey, bailiff.

**C043828      THE PEOPLE v. BACA**

Cause called. Philip M. Brooks, court appointed counsel, argued for appellant. David A. Rhodes, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:59 a.m., the court recessed. At 10:01 a.m., the court reconvened.

**C043002      UNDE v. L'OREAL, DIVISION OF COSMAIR INC.**

Cause called. Madhavji (Mark) Unde, M.S. argued as In Pro Per. Claudia J. Robinson argued for respondent. Cause submitted.

At 10:19 a.m., the court recessed. At 10:23 a.m., the court reconvened with Raye, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

**C043997      FINLEY et al. v. SATURN DEALERSHIP et al.**

Cause called. Richard G. Fathy argued for appellants. Robert H. Greenfield argued for respondents Saturn Dealership et al. N. Paul Shanley argued for respondents Bob Frink et al. Cause submitted.

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Hull, J.

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**The Minutes**

**March 26, 2004, continued**

- C044625      THE PEOPLE v. SHELTON      (Certified for Partial Publication)**  
The judgment is reversed and the cause is remanded to the trial court. If within 30 days of the issuance of the remittitur the district attorney so requests, the trial court shall vacate defendant's guilty plea and reinstate the dismissed charges. Otherwise the judgment shall be modified... and as so modified the judgment will be affirmed.  
MORRISON, J.  
I concur:      Sims, Acting P.J.  
I respectfully dissent... I would affirm the judgment.  
Raye, J.
- C043590      THE PEOPLE v. GARCIA      (Certified for Publication)**  
THE COURT:  
The opinion in the above-entitled matter filed on March 5, 2004, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in full in the Official Reports and it is so ordered. There is no change in the judgment. **(CERTIFIED FOR PUBLICATION)**  
FOR THE COURT:  
DAVIS, Acting P.J.  
MORRISON, J.  
BUTZ, J.
- C043716      AGUA CALIENTE BAND OF CAHUILLA INDIANS v. SUPERIOR COURT OF  
SACRAMENTO COUNTY and FAIR POLITICAL PRACTICES COMMISSION**  
THE COURT:  
The opinion filed March 3, 2004, is modified...  
Blease, Acting P.J.  
SIMS, J.  
Davis, J
- C044054      In re A.F.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. FIDEL C.**  
BY THE COURT:  
Appellant's petition for rehearing is denied.  
SCOTLAND, P.J.